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NASA Policy Directive

NPD 9050.6JEffective Date: November 29,
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2015**COMPLIANCE IS MANDATORY**[Printable Format \(PDF\)](#)

Request Notification of Change

(NASA Only)

Subject: NASA Exchange and Morale Support Activities

Responsible Office: Logistics Management Division

1. POLICY

a. It is NASA's policy that an Exchange and Morale Support Activity (Exchange) shall operate at each NASA Center for the purpose of promoting the morale and welfare of NASA employees, their families, and all other personnel resident at each Center.

b. Exchange and Morale Support Activities (Exchanges) are instrumentalities of the United States with associated privileges, rights, and immunities. To ensure this status, Exchanges must be under NASA's control, and ownership interests must be with the U.S. Government. Therefore, all organizations using Exchange facilities shall be determined to be either an Exchange element (instrumentality) or an independent organization.

(1) Instrumentalities shall be under Exchange control.

(2) Independent organizations and their equipment shall be separated from and not controlled by the Exchange, and the organization or activity will not compete with or duplicate Exchange operations.

(3) Approval for use of NASA or NASA Exchange facilities by independent organizations shall be based upon activities proposed and the organizations' ability to satisfy requirements such as insurance. Approval for use will not establish an independent organization as an instrumentality.

(4) Exchanges will not manage or supervise independent organizations.

(5) Exchange fund support shall not be provided to independent organizations (except for center-based clubs recognized by the Exchange Council), private groups, individuals, or charities. An Exchange may not provide in-kind or fund support to augment appropriations in violation of 31 U.S.C. §§ 1301

(a), 1342, 3302(b), or 42 U.S.C. 2473(c)(4). The use of nonappropriated funds for activities for which appropriated funds are authorized, such as, but not limited to, Agency

programs, awards, or protocol functions, is not proper and may result in a violation of Federal Government fiscal laws. An Exchange also may not provide in-kind or fund support to circumvent restrictions on use of appropriated funds for official Agency activities, events, or functions, including, but not limited to, programmatic or business meetings, events, luncheons, or ceremonies.

c. Exchanges may, by contract or otherwise, perform the following:

- (1) Operate businesses not limited to establishments such as food services, retail stores, social lounges, car washes, or salons.
- (2) Operate vending machines within Center buildings and grounds, to the extent that such operation is consistent with Federal and state laws and regulations.
- (3) Promote, manage, and oversee morale support activities including, but not limited to, fitness centers, athletic leagues, social clubs, child development centers, and recreation associations that contribute to the morale and welfare of NASA personnel.
- (4) Use and acquire real property and facilities to achieve Exchange objectives (subject to subparagraphs g. and h.).
- (5) Sell goods and provide services, provided they do not unduly compete with local merchants.
- (6) Receive and accept unsolicited and unconditional gifts, contributions, or donations intended for the Exchange and as approved by the Exchange Council.
- (7) Generate revenues or in-kind assistance through advertising or commercial sponsorships, provided the Exchange makes no endorsements, all agreements are in writing, and with the concurrence of the Center Chief Counsel.
- (8) Conduct other activities, events, and programs that support the morale and welfare of the workforce, as authorized by the Center Director with the prior concurrence of the Center Chief Counsel (and the Center Public Affairs Officer, when activities involve the public) and that are clearly in NASA's and its employees' interests.

d. Concerning sales, Exchanges shall:

- (1) Sell goods or services at the lowest possible prices or fee charges, consistent with operational costs and business and financial needs.
- (2) Generally use any surplus revenues to promote other Exchange activities.

e. The Exchange shall manage real property in accordance with the requirements of Attachment A of this NPD.

f. Exchange activities shall generally be supported by nonappropriated funds under the Exchange's sole jurisdiction.

g. Exchange programs shall normally use appropriated funding for executive control and management supervision, annual financial audits, utilities, maintenance/operation of facilities, repair of equipment, and other safety, health, or security requirements. Center Directors, with prior concurrence of the Center Chief Counsel and Chief Financial Officer, may authorize appropriated fund support for other activities, functions, or services, such as cafeterias and snack bars.

h. Exchange procurement of materials, supplies, or services with nonappropriated funds is not subject to procurement statutes and regulations applicable to NASA, unless made specifically applicable by a statute or regulation. As practicable, however, Exchange procurement practices shall:

(1) Conform to NASA's practices for conducting procurements.

(2) Conform to the requirements listed in Attachment A.

i. Participation in activities includes NASA employees and retirees, their family members and guests, NASA contractor employees, official visitors, and any other residents and visitors approved by the Exchange Council.

j. Exchange privileges may be denied to a patron who resells purchased merchandise.

k. Concerning liability insurance, the Exchange shall:

(1) Obtain liability insurance, as determined by the Exchange Council and Center Director.

(2) Name the United States as an additional insured party.

l. Concerning taxes, the Exchange shall:

(1) Collect, pay, and report applicable Federal taxes. By authority of Congress, a state may impose and collect tax on sales made by an Exchange concessionaire located on Federal property. A state may not levy and collect such a tax on sales made by the Exchange itself (4 U.S.C. §§ 105-107).

(2) Collect and pay state and local use and sales taxes only after determining applicability.

(3) Regarding the withholding and paying of Federal and state income tax, conform to policy applicable to appropriated fund employees of NASA at the same location. Exchange employees are subject to 5 U.S.C. §§ 8501-8508, Unemployment Compensation, and 5 U.S.C. §§ 8101-8193, Federal Employees Compensation Act.

m. If an Exchange is terminated, the successor in interest for nonappropriated assets will be other NASA Exchanges, and its appropriated assets become the property of the United States Government.

2. APPLICABILITY

This NPD is applicable to NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers.

3. AUTHORITY

42 U.S.C. 2473(c) § 203(c) of the National Aeronautics and Space Act of 1958, as amended.

4. APPLICABLE DOCUMENTS

- a. 4 U.S.C. §§ 105-107, as amended, Taxation Affecting Federal Areas.
- b. 5 U.S.C. §§ 8101-8193, Federal Employees Compensation Act.
- c. 5 U.S.C. §§ 8501-8508, Unemployment Compensation.
- d. 20 U.S.C. § 107, et seq., as amended, Vending Facilities for the Blind in Federal Buildings.
- e. 31 U.S.C. § 1301(a), Application (the Purpose statute), as amended.
- f. 31 U.S.C. § 1342, Limitation on Voluntary Services, as amended.
- g. 31 U.S.C. § 3302(b), Custodians of Money (the Miscellaneous Receipts statute), as amended.
- h. 48 CFR Parts 1-53, Federal Acquisition Regulation (FAR).
- i. 48 CFR, Chapter 18, NASA FAR Supplement.
- j. OMB Circular A-50, Audit Follow-up.
- k. NPR 1441.1, NASA Records Retention Schedules.

5. RESPONSIBILITY

a. Center Directors (which, throughout this document includes the Executive Director for Headquarters Operations) shall:

- (1) Establish at their NASA Centers and Component Facilities under their jurisdiction a NASA Exchange and branches to operate activities contributing to the morale and welfare of NASA personnel.
- (2) Establish policy and procedures appropriate to Exchange management.
- (3) Operate the Exchange and its elements in a business-like manner.
- (4) Authorize Exchanges' use of NASA-controlled real property and facilities and submit real property acquisitions and facility projects to NASA's Facilities Engineering and Real Property Division at NASA Headquarters, in accordance with Attachment A.
- (5) Ensure that Exchanges observe the Department of Education and cognizant state licensing agency regulations in implementing the Randolph-Sheppard Act Amendments of 1974, 20 U.S.C. § 107, et seq.
- (6) Complete an annual report of Randolph-Sheppard activities and forward it to the NASA Exchange Official in the NASA Headquarters Logistics Management Division by February 15 annually.
- (7) Appoint an Exchange Council which includes no less than five Center civil service employees, and designate one member as Chairperson, one as Treasurer, and one as

Exchange Operations Manager.

(8) Forward a list of Council Members to the NASA Exchange Official in the NASA Headquarters Logistics Management Division by February 15 annually.

b. The Exchange Operations Manager shall:

(1) Manage the Exchange within the policy, rules, and recommendations of the Exchange Council as approved by the Center Director.

(2) Function as the Records Manager for all Center Exchange Records.

c. The Exchange Council and Exchange Council members shall:

(1) Perform their duties without compensation from the Exchange. No employee paid by the Exchange may be an Exchange Council member.

(2) Meet on a regular basis, as necessary at the Chairperson's discretion, to review and approve activities of the Exchange. Minutes of its meetings shall be kept on file.

(3) Promote Exchange objectives and determine the extent of Exchange support of welfare and morale activities.

(4) Ensure that the operation of organizations established with its permission and under its control conforms to this NPD.

(5) Change policies, organizational structure, scope of activity, rules, or business practices with the Center Director's approval.

(6) Advise the NASA Exchange Official in the Headquarters Logistics Management Division of significant changes such as policy, structure, scope of activities, and rules prior to their implementation.

(7) Establish a system of internal controls that will provide reasonable assurance regarding the financial data, compliance with applicable laws and regulations, and prevention of, or prompt detection of, unauthorized acquisition, use, or disposition of Exchange assets. Controls over assets include safeguards for the protection of the Exchanges' property and supplies to prevent pilferage or unnecessary loss and periodic inventories.

(8) Review financial statements, activity budgets, and all other appropriate reports, including those of the Office of Inspector General, to ensure operation of a sound, business-like organization and provide for an annual audit of books and records of the Exchange and its elements.

(9) Submit an annual report on Exchange Council activities to the Center Chief Financial Officer (CFO)(with a copy to the Center Director), including a business plan for the next fiscal year, by February 15.

(10) Ensure that the reporting requirements found in Attachment A are followed.

(11) Complete a one-hour required annual ethics training session.

d. The Center CFO shall:

(1) Review financial statements and audit reports to ensure that the Exchange is financially sound and that responsible business practices are being followed.

(2) Comply with the requirements set forth in OMB Circular A-50 to ensure that audit recommendations addressed to the Exchange follow the Agency's established audit followup system. That system is designed to maintain accurate records of the status of audit reports or recommendations through the entire process of resolution and corrective action.

e. The Center Chief Counsel or, for Headquarters, the General Counsel, shall:

(1) Be responsible for providing guidance on legal and regulatory matters to the Exchange Council, including matters pertaining to the applicability of Government procurement statutes and regulations to Exchange procurements, and matters pertaining to the collection and payment by the Exchange of state and local use and sales taxes (i.e. paragraphs 1.g. and 1.m).

(2) Be responsible for concurring on concession contracts and on proposals for acquisition of real property for Exchange activities.

f. The NASA Logistics Management Division, or designee, shall:

(1) Monitor the Centers' adherence to this directive through required reporting, periodic visits, and reviews.

(2) Concur on proposed exceptions to this directive.

(3) Issue such supplemental guidelines and procedures as may be necessary to implement this directive.

(4) Function as the records manager for all agency Exchange records.

g. The NASA CFO shall be responsible for general oversight of financial activities in NASA, including Exchanges.

6. DELEGATION OF AUTHORITY

The authority to establish Agency policy for Exchanges is delegated to the Assistant Administrator for the Office of Strategic Infrastructure. Any responsibilities of the Center Directors or the Executive Director for Headquarters Operations may be delegated to any responsible NASA official, if the delegation is made in writing.

7. MEASUREMENTS/VERIFICATION

Exchanges will report on their activities, business plan, and financial status as stated in paragraphs 5.c.7 and 5.c.8.

8. CANCELLATION

NPD 9050.6I, NASA Exchange and Morale Support Activities, dated November 10, 2004.

/s/ Charles F. Bolden, Jr. Administrator

ATTACHMENT A: (TEXT)

Exchange Contract Requirements

1. All procurements and other acquisitions that result in a contract between an Exchange and another entity shall be thoroughly documented and retained for a period of at least 7 years after the end of performance, as part of official Exchange records.
2. Unless it would be inappropriate due to the nature of an Exchange contract, a clause shall be included in each contract stating that the contractor will indemnify and hold harmless the United States, its agents and instrumentalities (including the Exchange), and representatives, officers, and employees thereof, from any and all claims, demands, actions, debts, liabilities, judgments, and costs arising out of, claimed on account of, or in any manner predicated upon, the loss of or damage to property, or injury to or death of any person(s), in any manner caused or contributed to by any action or omission of the contractor, its agents, representatives, or employees.
3. Exchanges shall not give indemnification in any contract.
4. Exchanges shall compete and negotiate concession contracts generally in accordance with the Federal Acquisition Regulation (FAR) and NASA FAR Supplement, unless doing so would not be in the best interests of the Exchange.
5. Center procurement staff shall provide support to the Exchanges in such procurements.
6. Concurrence of the Center Chief Counsel and approval of the Center Director are required for any large Exchange contract, which is defined as one with an estimated total value of \$500,000 or more.
7. For Exchange contracts of less than \$500,000 in estimated total value, the concurrence of the Exchange's legal advisor is required as is the approval of the Exchange Operations Manager.
8. A copy of all large Exchange contracts shall be forwarded to the NASA Exchange Official in the Headquarters Logistics Management Division. Exchange Real Property Requirements
 1. A Center Director may authorize the use of NASA-controlled real property and existing facilities for Exchange operations, provided that such use does not interfere with official business or involve activities with the potential to release hazardous substances to the environment for which NASA (as the real property owner) is ultimately liable. Use of NASA-controlled real property and facilities for activities with the potential to release hazardous substances to the environment must be approved in advance by the appropriate Mission Directorate Associate Administrator, the NASA General Counsel, and the Assistant Administrator for Strategic Infrastructure.
 2. Proposals for the acquisition of real property for Exchange activities by lease,

purchase, or otherwise shall require the concurrence of the Center Director and Center Chief Counsel and must then be forwarded for concurrence by the Director, Facilities Engineering and Real Property Division, NASA Headquarters, prior to approval by the Exchange Operations Manager.

3. Proposed expenditures of nonappropriated funds for new Exchange facilities or proposed expenditures of nonappropriated funds in excess of \$100,000, per instance, for modification of existing Exchange facilities shall also be forwarded for approval by the Director, Facilities Engineering and Real Property Division. The Exchange Operations Manager may approve normal maintenance and repair of facilities or replacement of equipment.

Annual Exchange Council Reporting and Financial Requirements

Financial Reports

1. The Exchange Council at each Center and at Headquarters shall maintain financial records in accordance with generally accepted accounting principles as promulgated by the American Institute of Certified Public Accountants.

2. Audits of Exchange finances shall be conducted by a licensed independent public accounting firm, in accordance with Government Auditing Standards (GAS) issued by the Comptroller General of the United States. In some of the smaller Exchanges (i.e. less than \$500,000 total annual revenues), it may be appropriate to perform a review in accordance with American Institute of Certified Public Accountants Standards for Accounting and Review Services. Such exceptions should be fully justified and approved in writing, in advance, by the NASA Chief Financial Officer (CFO) and the NASA Exchange Official in the Headquarters Logistics Management Division.

3. The Exchange Operations Manager shall submit copies of consolidated September 30 End-of-Year Exchange financial statements and the annual audit report to the Center CFO and the NASA Exchange Official in the Headquarters Logistics Management Division by February 28 of the following year.

4. For NASA Headquarters, the Exchange Council President (or designee) shall submit the financial statement and audit report to the Executive Director, Office of Headquarters Operations. Audit responses will comply with the requirements set forth in the Office of Management and Budget (OMB) Circular No. A-50, Audit Follow-up. Annual/Business Reports

1. At a minimum, the annual report and business plan for all NASA Centers shall include the following:

a. A current list of council members.

b. A description of major activities for the previous year.

c. A description of major activities planned for the current year.

d. An assessment of major issues for both years. This report may include the annual report of Randolph-Sheppard Act activities discussed under paragraphs 5.a.5 and 5.a.6.

2. A copy of the annual report and business plan shall be forwarded to the NASA Exchange Official in the Headquarters Logistics Management Division and the Office of the CFO, NASA Headquarters. Financial Deposit Requirements

1. The entire balance of any Exchange's deposits at any financial institution shall be federally insured by either the Federal Deposit Insurance Corporation or the National Credit Union Administration, as applicable. In addition, if any deposits exceed the deposit insurance limit, the Exchange shall arrange for the financial institution to pledge obligations to the U.S. Government as collateral for any uninsured balances.

Reference Documents

District Courts; Jurisdiction and Claims Against the U.S. Generally, 28 U.S.C. §§ 1346, 1491.3 as amended.

(URL for Graphic)

None.

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